




City of Loma Linda Official Report

Floyd Petersen, Mayor
Stan Brauer, Mayor pro tempore
Robert Christman, Councilmember
Robert Ziprick, Councilmember
Charles Umeda, Councilmember

COUNCIL AGENDA: November 15, 2005

TO: City Council
VIA: Dennis R. Halloway, City Manager 
FROM: Mark Huebsch, Special Counsel
SUBJECT: Amended and Restated Cooperation Agreement between the City and the Agency

RECOMMENDATION

It is recommended that the City Council adopt Council Bill #R-2005-61, approving and authorizing execution of an Amended and Restated Cooperation between the City and the Agency.

BACKGROUND

Since the inception of the Agency, the City has made various loans to the Agency. It has been and remains the understanding of the City, as well as the Agency, that such loans are repayable on a basis subordinate to bonded indebtedness. In connection with the proposed issuance of tax allocation bonds by the Agency, as well as in the Agency's general interest, it would be appropriate to amplify the understandings between the Agency and the City concerning the subordinate status of the Agency's indebtedness to the City to bonded indebtedness and to restate, for administrative convenience, the amount of outstanding Agency indebtedness to the City as of the last day of the 2004-05 fiscal year.

ANALYSIS

The proposed resolutions and Amended and Restated Agreement do not change the understandings between the Agency and the City, but memorialize the current understandings in a single, easily retrievable document.

ENVIRONMENTAL

Exempt.

FINANCIAL IMPACT

Because the Amended and Restated Agreement restates historical and current understandings, there is no financial impact upon the Agency and the City; the Agency's indebtedness to the City will continue to be subordinate to the Agency's bonded indebtedness.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOMA LINDA
 APPROVING AND AUTHORIZING THE EXECUTION OF AN AMENDED AND
 RESTATED COOPERATION AGREEMENT WITH THE LOMA LINDA
 REDEVELOPMENT AGENCY AND MAKING CERTAIN FINDINGS IN
 CONNECTION THEREWITH

WHEREAS, the Loma Linda Redevelopment Agency (the "Agency") is a duly constituted redevelopment agency and is undertaking certain activities necessary for redevelopment under the provisions of the California Community Redevelopment Law (Health and Safety Code Sections 33000 *et seq.*) and pursuant to the Redevelopment Plan (the "Plan") for the Loma Linda Redevelopment Project (the "Project"); and

WHEREAS, pursuant to the Community Redevelopment Law, the Agency is performing a public function of the City and may have access to services and facilities of the City; and

WHEREAS, since the establishment of the Project, it has been the practice of the Agency and the City that the City has agreed to undertake public improvements and activities and to provide services and facilities from time to time to the Agency, and the Agency has repaid or has agreed to repay City, with interest, for such public improvements, activities, services, and facilities which are of benefit to the Project and the project area thereof (the "Project Area"); and

WHEREAS, the relationship and undertakings by the City on behalf of the Agency and by the Agency on behalf of the City have been set forth in several agreements between the Agency and the City, including without limitation prior agreements which have been denominated as "Cooperation Agreement(s)" and/or "Loan Agreement(s)" as well as promissory notes by the Agency (as maker) for the benefit of the City (as holder) (the "Prior Agreements"); and

WHEREAS, without amending, limiting, or modifying the Prior Agreements and the ongoing effectiveness of such Prior Agreements, which shall remain in effect according to their terms for the greatest time legally allowable, the Agency and the City desire to memorialize in this Agreement certain matters relating to the financial relationship between the Agency and the City as it relates to the Redevelopment Plan and its implementation; and

WHEREAS, the City and the Agency desire to provide for the ongoing provision of administrative support to the Agency by the City for so long as the Agency requires such support relative to the Plan; and

WHEREAS, the City and the Agency desire to enter into an Amended and Restated Cooperation Agreement substantially in the form on file with the Agency Secretary (the "Cooperation Agreement"):

- (1) To set forth activities, services and facilities which the City will continue to render for and make available to the Agency in furtherance of the activities and functions of the Agency under the Community Redevelopment Law; and
- (2) To reiterate and provide that the Agency will reimburse the City for actions undertaken and costs and expenses incurred by it for and on behalf of the Agency.

WHEREAS, the Cooperation Agreement also provides for the City's assistance in providing certain public improvements in implementation of the Redevelopment Plan; and

WHEREAS, the Agency has the general purpose of redevelopment and the elimination of blight and the provision of public facilities as set forth in the Plan; and

WHEREAS, the Cooperation Agreement is consistent with the historical and current practice of the City and the Agency that obligations of the Agency to the City are subordinated to bonds issued by the Agency; and

WHEREAS, the Agency has reviewed evidence, including both oral testimony and writings, in connection with this matter, and has determined that the foregoing recitals, and each of them, are true and correct, and further has determined that the Cooperation Agreement is in the best interests of the Agency and the City and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable State and local law requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMA LINDA DOES RESOLVE AS FOLLOWS:

Section 1. The City Council finds and determines that the Cooperation Agreement implements the Redevelopment Plan and the Implementation Plan, is of benefit to the Project Area, will contribute to the eradication of blight in the Project Area and is of benefit to the Agency.

Section 2. The City Council expressly finds, determines and ratifies that any and all obligations under the Agency to the City under the Cooperation Agreement are and shall be subordinated, without necessity of additional specific action therefor, to tax allocation bonds issued or authorized prior to November 30, 2005, and all bonds issued by Agency in connection with which the City's consent is obtained prior to issuance, and obligations of the Agency to bond insurers and sureties in connection therewith.

Section 3. The City Council authorizes and directs the City Manager to execute on behalf of the City the Cooperation Agreement. The City Council further authorizes and directs staff to take all actions necessary and appropriate to implement the participation by the Agency pursuant to the Cooperation Agreement.

APPROVED AND ADOPTED this 15th day of November 2005 by the following vote:

Ayes:
Noes:
Abstain:
Absent:

By: _____
Floyd Petersen, Mayor

ATTEST:

Pamela Byrnes-O'Camb, City Clerk

AMENDED AND RESTATED COOPERATION AGREEMENT

THIS AMENDED AND RESTATED AGREEMENT (the "Agreement") is entered into as of November 1, 2005, by and between the **CITY OF LOMA LINDA** (herein the "City") and the **LOMA LINDA REDEVELOPMENT AGENCY** (herein the "Agency").

RECITALS

A. Pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*), the City Council of the City of Loma Linda activated the Agency and adopted the Redevelopment Plan (the "Redevelopment Plan") for the Loma Linda Redevelopment Project as heretofore merged and amended (the "Project").

B. Pursuant to the Community Redevelopment Law, the Agency is performing a public function of the City and may have access to services and facilities of the City.

C. The Agency and the City have entered into previous agreements and the Agency has previously issued promissory notes for the benefit of the City which establish evidence of the indebtedness of the Agency to the City.

D. The City and the Agency desire to enter into this Agreement:

(1) To set forth activities, services and facilities which the City will render for and make available to the Agency in furtherance of the activities and functions of the Agency under the Community Redevelopment Law; and

(2) To provide that the Agency will reimburse the City for actions undertaken and costs and expenses incurred by it for and on behalf of the Agency.

E. The Agency and the City are also entering into an Agreement of even date setting forth the City's assistance in providing certain public improvements in implementation of the Redevelopment Plan.

AGREEMENTS

1. The City agrees to provide for the Agency such staff assistance, supplies, technical services and other services and facilities of the City as the Agency may require in carrying out its

functions under the Community Redevelopment Law. Such assistance and services may include the services of officers and employees and special consultants.

2. The City may, but is not required to, advance necessary funds to the Agency or to expend funds on behalf of the Agency for implementation of the Redevelopment Plan, including, but not limited to, the costs of surveys, planning, studies and environmental assessments for implementation of the Redevelopment Plan, the costs of acquisition of the property within the Project, demolition and clearance of properties acquired, building and site preparation, public improvements and relocation assistance to displaced residential and nonresidential occupants, if any, as required by law.

3. The City will keep records of activities and services undertaken pursuant to this Agreement and the costs thereof in order that an accurate record of the Agency's liability to the City can be ascertained. The City shall periodically, but not less than annually, submit to the Agency a statement of the costs incurred by the City in rendering activities and services of the City to the Agency pursuant to this Agreement. Such statement of costs may include a proration of the City's administrative and salary expense attributable to services of City officials, employees and departments rendered for the Agency.

4. The Agency agrees to pay the City, with interest, an amount equal to all expenditures made and obligations and liabilities incurred by the City pursuant to this Agreement from and to the extent that funds are available to the Agency for such purpose pursuant to Section 33670 of the Health and Safety Code ("Tax Increment") and the Agency pledges the Tax Increment to repayment of its indebtedness to the City hereunder (subject to Section 8 hereof); provided, however, that the Agency shall have the sole and exclusive right to subordinate such pledge for the benefit of the City to such other pledges as the Agency may make with respect to repayment of other indebtedness incurred by the Agency in carrying out the Project. The costs of the City under this Agreement will be shown on statements submitted to the Agency pursuant to Section 3 above. The parties recognize that repayment may occur over a period of time. Interest shall accrue on all amounts payable by the Agency pursuant to this Agreement at the rate of the lesser of (i) twelve percent (12%) per annum, or (ii) the highest legally-allowable interest rate for a redevelopment agency.

As of June 30, 2005, the total amount of Agency indebtedness to the City was \$18,390,711.

5. The Agency agrees that it shall comply with the City's personnel policies and administrative regulations in connection with its activities and obligations under this Agreement.

6. The City agrees to include the Agency within the terms of the City's insurance policy. The Agency shall pay to the City its pro rata share of the costs of insurance applicable to its activities resulting from the Agency's inclusion in the City's policy.

7. The obligations of the Agency under this Agreement shall constitute an indebtedness of the Agency within the meaning of Section 33670 *et seq.* of the Community Redevelopment Law.

8. The obligation of the Agency to make payment to the City shall, without necessity of further action by the Agency or City, be junior and subordinate to all other obligations or indebtedness heretofore or hereafter voluntarily incurred by the Agency, including without limitation the Loma Linda Redevelopment Agency, 2003 Tax Allocation Bonds (Loma Linda Redevelopment Project), the Loma Linda Redevelopment Agency, Subordinate 2005A Tax Allocation Bonds (Loma Linda Redevelopment Project) (the "2005A Bonds") and the Loma Linda Redevelopment Agency, Subordinate 2005B Taxable Tax Allocation Bonds (Loma Linda Redevelopment Project) and all refundings thereof and obligations to bond insurers and sureties in connection therewith.

9. This Agreement shall supercede prior agreements between the parties hereto covering the same subject matter.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CITY OF LOMA LINDA

By: _____
Dennis R. Halloway, City Manager

ATTEST:

Pamela Byrnes-O'Camb, City Clerk

LOMA LINDA REDEVELOPMENT AGENCY

By: _____
Dennis R. Halloway, Executive Director

ATTEST:

Pamela Byrnes-O'Camb, Agency Secretary